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ABSTRACT

The potential intended and unintended impact of parental rights initiatives on public education and child welfare agencies and on existing laws demands further scrutiny of the legislation and of its proponents and their motivations. Proponents assert that parental rights initiatives would guarantee parents' rights to direct the upbringing of their children and would protect parents from the encroachment of federal and state governments into childrearing. Parental rights initiatives proceed on three tracks: (1) state constitutional amendments such as that proposed in Colorado; (2) federal 'parental rights' amendments, such as the Parental Rights and Responsibilities Act; and (3) proposed state statutes, such as those in Washington, Indiana, Kansas, and New Hampshire. However, parental rights initiatives would provide individuals with legal weapons to challenge public school curricula and child abuse protection laws and would jeopardize the ability of social service agencies to act effectively in child abuse cases. These initiatives are part of a larger right-wing assault on public education to pave the way for school voucher programs and is led by two national organizations, Of The People, and the American Legislative Exchange. Parental rights initiatives, especially the Parental Rights and Responsibilities Act, raise serious concerns about their potential negative impact on investigations of child abuse and neglect, the ability of children and youth to obtain needed health care and counseling, the degree to which they would aid parents who want to censor school curricula and library collections and their facilitation of the introduction of school vouchers. (Contains approximately 40 references.) (KDFB)

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'Parental Rights:'
The Trojan Horse of the Religious Right Attack on Public Education

Introduction

For years, Religious Right political groups have worked to exercise a measure of control over what America's public school children can see, read, and learn. That effort has triggered hundreds of local school censorship controversies, a variety of restrictive school board policies, stealth campaigns for school board seats, local, state and federal legislation, ground-breaking litigation and more. The newest issue on the Religious Right political agenda is born of this same effort. Over the past two years, a national right-wing advocacy group claims to have introduced "parental rights" initiatives in 28 states.[1] In Washington, a constitutional amendment -- the Parental Rights and Responsibilities Act -- developed considerable momentum last session and is certain to be reintroduced next year. Voters in Colorado will confront a model parental rights ballot initiative in November.

Proponents publicly assert that their proposals would simply guarantee the rights of parents to direct the upbringing of their children and protect parents from what they claim is the encroachment of federal and state governments into the realm of childrearing. Parental rights language is initially appealing to many; who would disagree that the family is of primary importance in the growth of a child? Proponents capitalize on this appeal to portray opponents of the bill as meddlesome, bureaucratic, intrusive, and anti-family. The call for parental rights also strikes a chord with parents across political lines who have legitimate concerns about the state of public education and who believe that child protection agencies frequently overstep their authority. But the proposal's potential impact--both intended and unintended--on public education and child welfare agencies and on existing federal, state and local laws demands closer scrutiny of this seemingly simple legislation and of its proponents and their motivations.

In fact, parental rights initiatives would, by amending state constitutions, provide individuals with a vastly stronger legal weapon to challenge public school curricula and child abuse protection laws on political and sectarian grounds. The initiatives would jeopardize the ability of social service agencies to act effectively in cases of child abuse and neglect by making it more difficult to intercede on behalf of an abused child. The legislation would needlessly pit parents against parents, as well as against teachers and other child care professionals, calling on the federal courts to resolve disputes normally settled locally and without costly litigation. It would wreak havoc on public school curriculum by providing the means for individuals to block sexuality and AIDS education programs and other curricula they find objectionable not simply for their own children, but for other parents' children as well. In short, the amendment is part of a larger right-wing assault on public education, and, as stated by some of its leading proponents, it paves the way for school voucher programs that would allow parents to divert scarce resources from public schools to private, including sectarian, schools.

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Proponents of parental rights initiatives claim to be responding to a grassroots movement, but there is little concrete evidence that the push for parental rights legislation is anything more than a "top-down" political strategy executed by national right-wing groups. In fact, the push for parental rights in state legislatures and in Congress is led by two national organizations: Of The People and the American Legislative Exchange Council. For example, in Colorado, 97 percent of the money raised to put a parental rights initiative on the ballot this November came from the Virginia-based group Of The People.[2] Other than these two organizations, the vast majority of the bill's support seems to come from national Religious Right political groups.

The most visible organization in the effort is Of The People (OTP), a relatively new national, single-issue group based in Arlington, Virginia, and founded in 1993 specifically to promote the Parental Rights Amendment (PRA).[3] The group's stated goal is to amend all 50 state constitutions to include the PRA language.[4] The American Legislative Exchange Council (ALEC) is a national network of conservative state legislators that provides white papers and model legislation for its members. According to the president of OTP, the introduction of parental rights amendments in 28 states is the direct result of its collaboration with ALEC.[5] The states in which OTP claims to have a legislative sponsor for its amendment are: Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia, Washington and Wisconsin.[6]

While OTP and ALEC have provided the mechanism for distributing the model legislation to the various states, the passion driving the bills has come from a collection of Religious Right organizations, who see in PRA an opportunity to further their ongoing assault on public education. The Christian Coalition, Focus on the Family, Family Research Council, Citizens for Excellence in Education, Home School Legal Defense Association, Eagle Forum, Traditional Values Coalition, National Center for Home Education, American Center for Law and Justice, Rutherford Institute and a number of state-based home schooling and Christian school groups have formed a coalition to support the bill at the federal level.[7] In their action alerts, memos, newsletters, direct mail articles and television and radio broadcasts, Religious Rights groups have been energetically pushing parental rights initiatives on the state and local level as well.

The PRA is a natural extension of the Religious Right's long-standing campaign against public schools. Over the years, various elements of the movement have worked to censor books from school classrooms, to inject sectarian activity into the schools, to divert taxpayers' dollars from public education to private, sectarian schools and more.

PRA, its pro-parent patina notwithstanding, would advance the Religious Right's platform across the board.

Indeed, parental rights legislation is the fourth plank of the Christian Coalition's 1995 Contract with the American Family.[8] Led by televangelist Pat Robertson and political strategist Ralph Reed, the Christian Coalition is well known for its opposition to public education, hostility towards gays and lesbians, and intolerance of people whose views and families do not conform to its narrowly-defined vision of what is acceptable in American society. The Contract also advocates a return to state-sponsored prayer in public schools, a constitutional ban on all abortions, the elimination of the Department of Education and the creation of a school voucher system.[9]

Rep. Steve Largent (R-OK), House sponsor of the federal Parental Rights and Responsibilities Act, has embraced the Christian Coalition's Contract with the American Family[10] and was recently named vice chairman of Of The People (OTP). Mike Farris, president of the Home School Legal Defense Association,[11] former general counsel for Concerned Women for America, and former executive director and general counsel of the Washington state chapter of the Moral Majority, helped draft the federal legislation.[12]

'Parental Rights' Initiatives

"Parental Rights" efforts are proceeding on three separate tracks: as proposed amendments to state constitutions, as proposed federal legislation, and as proposed state legislation.

State Constitutional Amendment

The constitutional amendment proposed in many of the state legislatures, drafted by Of The People, reads simply: "The rights of parents to direct the upbringing and education of their children shall not be infringed. The legislature shall have power to enforce, by appropriate legislation, the provisions of this article."[13]

Colorado is the first state to put a parental rights amendment on the ballot and for this reason is the focus of national attention. With enormous financial and organizing support from OTP, proponents managed to collect the required signatures to qualify for this November. The amendment utilizes OTP language but is even more explicit than the generic amendment: "The Amendment would add the right of parents 'to direct and control the upbringing, education, values and discipline of their children' to the Colorado Constitution."[14]

Supporters and opponents alike are closely monitoring the Colorado ballot initiative, because they agree with OTP president Ralph Benko that "What happens in

Colorado will dictate what happens in the rest of the country."[15] Or as OTP chairman Jeffrey Bell put it at the 1996 Christian Coalition Road to Victory Conference, "There are 27 states waiting on Colorado; we will win there."[16] Bell argues that winning in Colorado "could be more important than Dole's election, or the control of Congress," and declares the projected victory "will be a turning point . . .the Grenada of the Cold War"[17]

The Coalition for Parental Responsibility (CPR) spearheaded the Colorado initiative and collected 83,100 signatures needed to put it on the ballot; only 54,242 were required.[18] According to local press in Colorado, CPR's executive director, Leah Delay, was hired by Of The People to lead the effort[19] despite the fact that CPR bills itself as a local group.[20] CPR's financial disclosure records show that of the $150,416 contributed to CPR, Of The People has donated $146,000. In other words, OTP funds *more than 97 percent* of CPR's campaign,[21] which includes a major advertising blitz and media outreach. OTP president Greg Erken--along with Delay--is listed as a contact person on CPR press releases.[22]

The Coalition for Parental Responsibility has local support from such groups as Citizens for Responsible Government (CRG), an anti-reproductive choice group whose mission, in its own words, is to "protect Colorado families from exploitation by the abortion industry by carrying a Parental Notice measure to the people."[23] CRG sponsored a successful ballot initiative in 1984 to eliminate public funding for abortion. The initiative has recently been declared unconstitutional. CPR also has the support of the state Christian Coalition, James Dobson, head of Focus on the Family, the Family Research Council, Christian Home Educators of Colorado, as well as Colorado Concerned Women for America.[24]

Several right-wing state legislators have voiced their support for the initiative, including Rep. Mark Paschall, (R-29th District) and Sen. Bob Schaffer (R-14th District), who issued a joint statement demonizing "paid government employees" and others who "think the government is wiser and more benevolent than you and therefore should have more to say about what your children are learning in school...about disciplining your children...about the morals and values that will, in all probability, form the societal and spiritual mores' [sic] of your children throughout their lives...about what constitutes appropriate 'confidential' services for your minor children. Why? What can be their motives?"[25] Representative Paschall recently made the news when he offered up a morning prayer in the state House of Representatives that so offended a number of representatives that they walked out of the chamber in protest.[26] The prayer read, in part: "We have worshipped creation and multiculturalism instead of you...We have endorsed perversion and called it an alternative lifestyle...We have killed our unborn and called it expedient, compassionate choice."[27] (This same prayer, written by a right-wing anti-abortion group, provoked a similar reaction when it was read in the Kansas House of Representatives earlier this year.)[28]

Tom Tancredo, a former Reagan-appointed regional head of the Department of Education,[29] has also been a leader in the initiative effort. President of the Independence Institute, a state-level think tank, backed by corporations and right-wing foundations, that advocates free market environmentalism, deregulation, and privatization of public services, Tancredo is a fierce advocate for school vouchers.[30] The general counsel for the Colorado Education Association identifies Tancredo as a leader in "a faction that has been working in Colorado for years...to take the public schools away from the public."[31] In addition, former Reagan-appointed U.S. attorney Mike Norton[32] is now spokesman for CPR.[33]

The ballot initiative is opposed by Protect Our Children, a broad coalition of more than 90 organizations, whose aim is to inform Colorado voters about both the intended and unintended consequences of the vaguely-worded amendment. The group is large and diverse, with representatives from the teaching and health professions, churches and religious groups, unions, legal associations, adoption agencies and children shelters, parents groups and local government agencies. Members from the health care and child protection professions include the Colorado Academy of Family Physicians, Colorado Medical Society, Colorado Nurse's Association, Colorado Chapter of the American Academy of Pediatricians, Colorado AIDS Project, Mental Health Association of Colorado, Rocky Mountain Society for Adolescent Medicine, Mountain Coalition to Prevent Child Abuse, Denver Children's Advocacy Center, Adoption Alliance, Colorado Ob/Gyn Society and the National Association of Social Workers. Support from the religious community comes from the Colorado Council of Churches, Rocky Mountain Conference United Church of Christ, and Catholic Community Services of Colorado Springs. Legal groups include the Colorado Bar Association, Hispanic Bar Association, Colorado Women's Bar Association--Board of Directors and the American Civil Liberties Union of Colorado. Colorado Counties, Inc., which represents county governments and commissioners, and the Colorado Municipal League, representing city government employees, have also joined the coalition. From the parent and education community there is the Colorado Library Association, Colorado Education Association and the Colorado PTA--Parent Teacher Association. Additional members include the Religious Coalition for Reproductive Choice, the People for the American Way Action Fund, Planned Parenthood of the Rocky Mountains, the League of Women Voters, Colorado NARAL, Colorado National Organization for Women, Anti-Defamation League and Association for Senior Citizens.[34]

Colorado governor Roy Romer strongly opposes the initiative, calling it a "chocolate-covered lemon" that is "explosive in its ambiguity. The only thing certain about it is that it's going to lead to very expensive lawsuits...This is a full employment bill for lawyers. And I'm against that."[35] The governor also warned that the amendment could "get in the way of reasonable child abuse laws...[and] could permit censorship of

materials and programs in public libraries and schools. It could limit a teen-ager's access to confidential services such as substance abuse treatment, mental health care, birth control and counseling."[36] The Governor's views notwithstanding, opponents of the initiative face an uphill battle in defeating this deceptive and dangerous proposal; fully 76 percent of Colorado citizens polled by the *Rocky Mountain News* favored the parental rights amendment.[37] The Protect Our Children Coalition will wage a large scale voter education campaign through the media to clarify the real stakes in the battle.

Federal 'Parental Rights' Amendment

The Parental Rights and Responsibilities Act (PRRA) is sponsored in the Senate by Sen. Charles Grassley (R-IA) (S. 984) while on the House side, Representative Steve Largent (R-OK) is the key sponsor of the bill (HR 1946). Representative Largent is the new Of The People Vice Chairman.[38] Support comes primarily from conservative Republicans, including presidential hopeful Bob Dole, one of the bill's cosponsors before resigning from the Senate to run for the White House.[39] Parental rights language was also included in the Republican National Platform.[40]

The federal bill, drafted with the aid of longtime Religious Right activist Michael Farris, president of the Home School Legal Defense Association,[41] includes language very similar to the Of The People constitutional amendment, but is much more specific than the constitutional amendment, in that it establishes a federal cause of action for parents who believe their parental rights have been infringed, potentially adding thousands of new cases to already clogged federal court dockets. Moreover, contrary to its title, the federal proposal delineates "parental rights" to discipline, direct the upbringing and education of the child, and make health decisions, but nowhere in the bill is there language addressing parental responsibility. Hearings have been held in both the Senate and the House and the bill passed out of a subcommittee in the Senate, but no full committee votes have been taken.

Proposed State Statutes

In some states, longer and more complex parental rights bills have been introduced either instead of or in addition to the OTP constitutional amendment. OTP has stated that it is not seeking nor promoting state statutes, and is focusing exclusively on constitutional amendments. In Washington state, for example, parental rights language has been included in a broad piece of legislation that would prohibit schools from counseling students (after an initial session) without written parental consent. In addition, the bill would require that parents be notified about the specific issues discussed in counseling, and that adolescents get written consent from their parent or guardian to be tested for sexually transmitted diseases. The legislation passed the House but died in the Senate.

In Indiana, the state House of Representatives passed a broad child welfare bill that included language on parental rights.[42] The bill, promoted by Citizens Concerned for the Constitution, a right-wing, virulently anti-gay group,[43] was opposed by social service agencies, school groups and police departments.[44] The original bill also contained a provision that gave people falsely accused of abuse access to transcripts of the reports of suspected abuse which, according to Indiana Family and Social Services Administration estimates, would have jeopardized up to $35 million dollars in federal child protection money because federal law requires such reports to be confidential.

Opposition was so strong that the section regarding access to reports of abuse was modified to comply with federal requirements, and the parental rights provisions were removed from the bill and remanded by a conference committee to an interim study committee for review.

In Kansas, parental rights legislation "to protect the right of a parent to direct the upbringing of a child" was proposed; a watered down version was passed as part of the Juvenile Code.[45] In Michigan, a senate joint resolution was proposed in 1995 that would have put an OTP-style parental rights amendment on the ballot. The resolution is languishing in committee with no prospects for passage this session, as is a parental rights bill in the Senate. However, parental rights language was adopted as part of Michigan's 1995 School Code, stating that "It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching and education of their children. The public schools of this state serve the needs of the pupils by cooperating with the pupil's parents and legal guardians...."[46] Given the nebulous language of the code and the recent attempts to direct public funds to private and sectarian schools into that state,[47] the ramifications of this section remain unclear.

Lawmakers in the 1996 session of the New Hampshire legislature considered both an Of The People-style constitutional amendment and a broader education bill pertaining to parental rights. The amendment was defeated in the Senate, but the education bill passed the Senate in amended form before it was killed in the House Education Committee. The original legislation included a model letter to be provided to every parent or guardian of public school students that stated in part: "Parents have the right to be assured that their children's beliefs and moral values are not undermined by the schools. Pupils have the right to have and hold their values and moral standards without direct or indirect manipulations by the schools through the curricula, textbooks, audio visual materials or supplementary assignments."[48]

Following those statements in the letter is a list of topics and activities in which the child may not participate without the prior written consent of the parent. These topics include: "Nuclear war, nuclear policy, and nuclear classroom games; Globalism, one-

world government, or anti-nationalistic curricula...Education in human sexuality, including premarital sex, contraception, abortion, homosexuality, group sex and marriage, prostitution, incest, bestiality, masturbation, divorce, population control, the roles of males and females, sexual behavior and attitudes of pupils and their families...Organic evolution, including Darwin's theory; Discussions of witchcraft, occultism, the supernatural, and Eastern mysticism." In other words, children whose parents send in this form cannot study basic biology (Darwinian evolution), take part in Halloween or read fairy tales (witchcraft and the supernatural), attend health and sexuality education classes (human sexuality), take part in environmental and earth studies (population control), participate in the model U.N. (globalism, one-world government) or read literature such as *Romeo and Juliet* (premarital sex, roles of males and females) without prior written parental consent. They also may not participate in "role-playing or open-ended discussions of situations involving moral issues and survival games, including life and death decision exercises," or participate in "[c]ontrived incidents for self revelation...including the keeping of a diary, journal, or log book."[49]

Issues Raised by the Parental Rights Initiatives

Both state and federal versions of parental rights proposals raise serious concerns about how they would hinder investigations of child abuse and neglect, the harmful effects they would have on the ability of children and youth to get needed health care and counseling, and the degree to which they would aid parents who want to censor school curriculum and library collections for other parents' children. The discussion below focuses primarily on the federal Parental Rights and Responsibilities Act (PRRA). That bill has been the subject of considerable analysis, in part because it contains specific provisions. The analysis is applicable as well, however, to the much briefer -- but extraordinarily broad -- proposed state constitutional amendment. Though the amendment contains no specific provisions, its broad wording raises the same concerns as do the provisions of the PRRA.

Child Health and Welfare

The U.S. Advisory Board on Child Abuse and Neglect reports that five children die each day from abuse or neglect, and data from the Department of Health and Human Services show that the number of children seriously injured due to abuse nearly quadrupled between 1986 and 1993. A national survey done by the National Committee to Prevent Child Abuse revealed that more than 3 million children were alleged victims of maltreatment in 1994.[50]

PRRA advocates scoff at critics' contention that PRRA will deter the reporting and investigation of child abuse. They maintain that existing laws will not be affected

and portray opponents as alarmists who insult parents by exaggerating the prevalence of child abuse. They share with Rep. Steve Largent the belief that if America returned to "traditional family values," where mothers stay home and all families were two-parent families,[51] many of the seemingly intractable problems facing families would disappear. . Clearly, stable families are essential to raising healthy children--no one would argue with that. Yet by oversimplifying and focusing on "traditional values" imagery, supporters divert attention from the fact that child abuse is in fact a growing problem in this country, and that further impeding child protective services will only hurt children.

Child abuse and neglect cases are currently dealt with on a local and state level, with very few exceptions. The PRRA would involve the federal courts in a realm traditionally left to state courts. If this happens, federal courts could be in the position of nullifying state laws and policies.[52] This will result in confusion, unnecessary and expensive litigation and create a chilling effect on child protective service workers and public school staff. The National Child Abuse Coalition believes that the "threat of lawsuits would deter reporting of suspected child maltreatment and wreak havoc with local efforts to protect children."[53]

Under the PRRA, the state must demonstrate "a compelling governmental interest" before a welfare agency can intervene to determine whether the child is in danger. This is a higher legal standard than any currently employed by state child protection and social service agencies in cases of suspected abuse. The American Academy of Pediatrics believes that "PRRA would create a 'chilling effect' on public servants and agencies, due to the threat of litigation: 'Any government employee[s] who deal with children could be subjected to a costly lawsuit for 'interfering with' or 'usurping' parental rights, including pediatricians, emergency room personnel, family practitioners, nurses, and other health care workers, guidance counselors, school nurses and psychologists, teachers, and other public school personnel, social workers, and law enforcement officers."[54]

PRRA exempts child abuse from "reasonable corporal discipline," though neither term (child abuse and reasonable corporal discipline) is defined. In fact, the bill defines abuse and neglect as "as the terms have traditionally been defined,"[55] throwing it back on state courts to define abuse in each case. Therefore the courts would be clogged with cases in which one of the issues is the definition of abuse, because as history has proven, many abusive parents believe their behavior to be justifiable. In Colorado, for example, site of the ballot initiative, amendment advocates rallied to the defense of a man who has been charged with child abuse for giving his 17-year-old son a black eye, allegedly for telling a lie. For the man and his supporters, this constituted "reasonable corporal discipline."[56] Parents already convicted of child abuse may also attempt to re-litigate, claiming that their actions constituted "reasonable corporal discipline."

PRRA would also undermine state laws allowing adolescents to seek medical help or counseling without parental consent if they are in an abusive situation. As the American Academy of Pediatrics (AAP) has pointed out, PRRA would allow abusive parents to refuse their child medical care or counseling, and would interfere with the ability of children to seek counseling without parental consent, even though many times adolescents are seeking help with family problems. The PRRA would also create barriers for adolescents seeking treatment for sexually transmitted diseases by requiring parental consent, as some adolescents would refrain from seeking treatment, rather than involve their parents. In so doing, the amendment would undermine laws in 49 states that allow adolescents to seek such treatment on their own.[57]

Many amendment advocates assert that the initiative will reduce the number of abortions by pregnant teenagers, but this is not necessarily the case. A representative from Colorado Planned Parenthood, home of the parental rights ballot initiative, says "We see parents who bring their teenagers into the clinic and say, 'Give my child an abortion,' and the teen would rather carry to term. We see that just as frequently as we see it the other way around. Does this amendment mean we must give the teen an abortion over her objections?"[58]

Many groups, including the National SAFE KIDS Campaign chaired by former Surgeon General C. Everett Koop, believe that the PRRA could also override state health and safety laws, such as those requiring immunizations and the use of infant car seats.[59]

Clogging the Courts

The potential for costly, repetitive and unnecessary lawsuits is in itself a cause for concern. Parental rights legislation is often characterized by opponents as a "lawyer's full-employment act,"[60] referring to the endless lawsuits that will result from such vaguely worded legislation. This is not a baseless concern, as even amendment proponents have stated that is their intent. Jeffrey Bell recently stated that the amendment was "meant to be general," and "meant to be argued out in court."[61] Leah Delay, leader of the Colorado initiative effort, has stated, "If we're in court for the rest of our lives, thank goodness." Tom Tancredo, Independence Institute founder and leading parental rights amendment supporter, echoes this: "The reality is that almost everything [in the amendment] will have to be adjudicated."[62] A lawyer for the Georgia-based Southeastern Legal Foundation, involved in that state's parental rights push, stated "We are out to make bad law in order to provoke legislatures to repeal bad laws."[63]

Such reliance on judicial intervention and constitutional amendments to settle complex questions regarding parental rights worries conservatives as well as liberals. Conservative columnist George Will, in a recent *Washington Post* editorial, supports parental rights advocates but regrets "the zest with which some conservatives are

succumbing to the temptation to seek judicial relief from offensive policies."[64] Citing the text of the OTP amendment in full, he states "Those 17 words are rich in potential for breeding litigation about matters that should be settled by legislation, or by processes of political persuasion." "Do we want to turn every parent's grievance into grounds for suing?"[65] he asks. Will concludes that "It is injurious to democracy to write into law language certain to breed litigation that will draw courts even deeper into the unjudicial business of reviewing and rearranging the details of social life."[66]

Jeffrey Bell, OTP chairman, recently told a *Washington Post* reporter that he does not believe that the PRA will increase the number of lawsuits, precisely because he hopes to cow school districts into compliance. He argues that parents will not need to sue because schools will know that they are easier targets for lawsuits and therefore will be more likely to accommodate parents' requests.[67] However, at the Christian Coalition's 1996 Road to Victory Conference he stated that amendment was "meant to be general," and "meant to be argued out in court."[68]

The truth is that school districts around the country are already under great pressure to eliminate sexuality education programs and health clinics, as well as literature ranging from Halloween stories to works by such authors as Mark Twain and Maya Angelou. So while Bell seems to contradict himself on whether such efforts will be more likely end up in court or whether they will instead be resolved through intimidation at the classroom level to the satisfaction of schoolbook censors, neither alternative is particularly attractive.

Threats to Public Education

Parental rights proposals, if adopted, would undermine public education in two ways: first, they would allow individual parents to derail entire courses they find objectionable, or tailor classes to avoid topics they deem offensive, rather than opting their child out of a particular class. Second, the proposal facilitates the introduction of school vouchers, whereby public funds are diverted to both secular and sectarian private schools.

- Challenges to Curriculum: Opt Out vs. Opt In

In nearly every school district, parents currently have the right to opt their children out of sexuality and AIDS education, as well as out of specific activities or assignments that conflict with their religious beliefs. They have recourse to the school board, and most school districts have policies that encourage parents and educators to work together to resolve differences of opinion. If the PRRA is enacted, such cooperation will fall by the wayside as parents who disagree with curriculum decisions take their cases into federal court. They will be able to contest any reading material or

controversial class discussion based on an allegation that it violates their parental rights. PRRA would create chaos in the public schools as each parent claims his or her child is entitled to a curriculum tailored to the parent's religion and values.

The National Education Association reports that school districts around the country have *already* been flooded by "parental rights" form letters demanding that "my child be involved in NO school activities or material [including] curricula, textbooks, audio-visual materials, or supplementary assignments [involving] the topics listed below" without parental prior "written consent." The Eagle Forum's form letter list has 94 such taboo topics, including "divorce," witchcraft," and "roles of males and females." Another form letter lists "suicide," "creative problem solving," and "team management."[69] The general counsel for the National School Boards Association has commented on the impediments to learning created by such proposals: "Try running a high school class on Shakespeare. *Romeo and Juliet*? You've got teen-aged sex, children disobeying their parents and a suicide pact. *Macbeth*? You start with witchcraft and go from there."[70]

Of The People's Greg Erken has claimed that the parental rights amendment would simply provide parents with the right to opt their children out of classes, not the ability to change the curriculum for an entire class. However, on a recent radio interview, Erken stated that "what parental rights comes down to, *although it's not limited to this*, is getting an opt-out of certain courses or condom programs or what have you, *or better yet, an opt in.*"[71] [emphasis added] In a separate interview, OTP President Ralph Benko repudiated a fellow PRA proponent's claim that PRA bills would simply provide parents with exemptions (opt-out rights) from certain classes, saying that "from Of The People's point of view, it does go beyond merely creating exemptions."[72] In other words, the parents of an entire class would have to request that a sexuality education course be taught, rather than those who object having the right to remove their children from the class. Common sense dictates that this would not only be a logistical nightmare, but that the end result would be to ultimately eliminate for everyone all classes considered controversial by a few.

Furthermore, a study on the constitutionality of the PRRA done by the Congressional Research Service, a division of the Library of Congress that conducts research for members of Congress, finds the claim that the PRRA is simply an opt-out program to be false. It states that "the proposal would appear to grant a parent standing to challenge governmental actions related to the education of their children, the provision of medical services, the management of juvenile detention facilities." "Some of the actions by government officials which might be challenged in this context would include ***discussion of religion, the provision of sex education, the teaching of evolution, the required performance of community service, the assignment of detention, or even class seating arrangements.***" [emphasis added] PRRA would also allow parents to challenge

such requirements as mandatory immunizations and school physical exams or disability screening.[73]

- *Dissolution of Public Education: School Vouchers*

Parental rights initiatives have been called a back door to vouchers, and while proponents downplay the connection, a quick look at Religious Right leaders' statements and literature makes the link very clearly.

School vouchers are one of the favored education proposals of conservative legislators, many of whom argue that vouchers will rescue underprivileged inner-city children from overcrowded and dangerous schools. Parents would be issued voucher credits equal to or less than the per-child cost of educating their child in public school, and could use that toward tuition for private schools.

However, vouchers will drain money from already underfunded public schools and direct it to private coffers. Furthermore, private schools, often touted as less trouble-ridden, are so precisely because they are able to select their student population, while public schools must take every student. There is no mandate for private schools to accept troubled, disabled or low-achieving children. If vouchers were implemented, public schools would be drained of advantaged students and concerned parents, leaving public schools with the students unable to get into private schools, or those whose parents cannot afford to make up the difference between the voucher and private school tuition. From a constitutional point of view, vouchers are problematic because they would allow funds to be directed toward sectarian schools, a clear violation of the separation of church and state.

Clint Bolick, litigation director for the conservative Institute for Justice, which is aiding Wisconsin Gov. Tommy Thompson in his attempt to expand the Milwaukee program to include sectarian schools,[74] substantiates claims that the PRA would facilitate vouchers. At a recent Heritage Foundation panel discussion, he said that any law or constitutional amendment giving parents the power to "direct the upbringing" of their children could be a powerful tool for voucher proponents, because it would facilitate approval of vouchers in court. Further, the PRA is "a very harmonious, parallel movement" to the voucher movement. "You could win that battle [arguing voucher legislation on the basis of PRA] pretty swiftly."[75]

Ralph Reed, executive director of the Christian Coalition, made the connection between PRAs and vouchers on a recent edition of the 700 Club, Pat Robertson's daily television show, saying "We believe that parents raise children, not government bureaucrats. And we believe that the parent-child relationship is the most sacrosanct relationship in our society, and we want the government to do something to protect

it...The ultimate answer to that -- the Parental Rights act is going to be a very important linchpin in this whole movement -- but the ultimate answer is school choice. We've got to provide families with scholarships and vouchers so they can choose the best child [sic] for their school, private, public, and parochial."[76]

Ralph Benko, OTP president, in an attempt to counter allegations that his initiative is part of a larger Religious Right agenda, recently insisted on National Public Radio that the parental rights amendment is not a "back door" to vouchers. Yet he added that "it could well be that the parental rights amendment will be a precursor issue by which the country will come to terms with [vouchers]."[77] This echoes a statement by Jeffrey Bell, OTP chairman, in the March 1995 issue of *Voice*, Of The People's newsletter. Asserting that the "heart of the parental rights issue involves the future of American education," Bell notes that opponents to education reform have "mobilized vast resources against the growing movement for school choice." According to Bell, the primary obstacle confronting voucher proponents is the fact that private school vouchers divert money from public schools, and the only way this will change is if "public schools deteriorate further, perhaps to the point of breakdown," a situation Bell does not foresee happening anytime soon.[78] Interestingly, a parental rights amendment that allows parents to create chaos in classrooms by demanding individual curricula for each student would do much to accelerate this deterioration.

Further, Bell asserts that a debate about parental rights is a "necessary precursor" to "broad-based education reform" and suggests that PRA is "a viable framework" for a number of such reform goals, such as "the school choice move,...[resistance to] controversial curricula, explicit sex education, and condom distribution."[79]

More recently, the April 1996 issue of OTP's *Voice* explicitly frames school vouchers as an issue of parental rights in reference to the Milwaukee voucher program: "Parents argue that they should have the ultimate authority over their children's education: control over the money that pays for it...By using their money at the religious school of their choice, parents can exercise their rights, society can benefit from the moral instruction, and the state can avoid a situation where it imposes a particular non-religious ethic on children."[80]

Supporters of the Parental Rights Amendment

Proponents of the parental rights amendment are a veritable who's who of the right-wing and Religious Right political movements. Of The People, which authored the PRA, is its most visible backer. It is joined on the state level by the American Legislative Exchange Council (ALEC), a nationwide network of and information clearinghouse for conservative state legislators. ALEC members often introduce legislation, ranging from

"right to work" bills to privatization and deregulation legislation, based on prototype bills provided by the organization.

As this issue has gained popularity in right-wing circles, a number of conservative Republicans, including Republican presidential nominee Bob Dole, have climbed aboard the bandwagon. Patrick Buchanan recently expressed his support for parental rights because children in schools "are being poisoned against their Judeo-Christian heritage, against America's heroes and against American history, against the values of faith and family and country."[81] Finally, strong and active support also comes from such Religious Right national political organizations as the Christian Coalition, Concerned Women for America, Focus on the Family, Family Research Council, Eagle Forum, Rutherford Institute, Home School Legal Defense Association and Citizens for Excellence in Education.

Of The People

Despite the fact that Of The People and its PRA have nearly unanimous support from Religious Right organizations, Greg Erken, OTP executive director, scoffs at charges that the initiative is part of a larger right-wing effort to weaken public education and federal, state and local protections against child abuse and neglect. "All they have are scare stories," he told *Christian American*, the magazine of the Christian Coalition. "Now parents are just another far-right group."[82] He and Jeffrey Bell--Of The People founder and chairman, anti-abortion activist[83] and former strategist for both President Ronald Reagan and former Congressman (and now vice presidential candidate) Jack Kemp[84]--generally stick to their claim that the PRA is a simple affirmation of parental rights and responsibilities unconnected to a right-wing agenda.[85] OTP's second national conference in December, 1995, featuring speakers from the Family Research Council, National Center for Home Education and the Free Congress Foundation, belied that assertion. OTP's editorial board includes such notable conservatives as William Kristol, former Vice President Dan Quayle's chief of staff and editor of the *Weekly Standard*, and Grover Norquist, president of Americans for Tax Reform and a leader of the effort to "defund the left."[86]

According to the Christian Coalition's *Christian American,* "Greg Erken, OTP executive director..[stated that] the need for parental rights legislation began to take shape after parents in New York City organized to topple the 'Rainbow Curriculum,' with its centerpiece primary reader, *Heather Has Two Mommies*,"[87] and OTP president Ralph Benko has publicly stated that the movement grew in opposition to the New York City district's condom distribution program.[88] In other words, the initiative is directly related to conservative attempts to restrict public school programs and curriculum. In May 1995, Erken told a California reporter at the *Sacramento Bee* that the PRA would give parents greater legal standing in challenging the curriculum as well as school policies. He also noted that passage of the PRAs would facilitate approval for a school voucher system.[89]

Jeffrey Bell, OTP chairman, also alluded to the PRA's ability to grant parents greater power over curriculum and education policy, when he was cited by the *Los Angeles Times* saying that he could imagine parents voting on what should be taught, offering phonics as an example. This contradicts OTP's previous assertions that the PRA is meant only to protect parents who object to condom distribution programs and other extracurricular programs. Teaching phonics is clearly a curriculum decision. (Phonics is often touted by Religious Right groups as part of a "back-to-basics" curriculum.)[90] In Bell's vision for the future, parents unhappy with the outcome of a parental vote on curriculum "should have greater freedom to go elsewhere."[91] In light of a number of Greg Erken's statements regarding vouchers, it is clear that Bell's reference to "greater freedom" means public funding of private school tuition vouchers.

Of The People gets financial support from conservative foundations such as the Lynde and Harry Bradley, and the Scaife Family foundations.[92] The Bradley Foundation alone granted OTP $125,000 in general operating support for 1993, OTP's first year of operation, and reauthorized the grant at the same level for the following year. The magnitude of the grant becomes apparent in light of Jeffrey Bell's recent assertion that OTP expects to spend $500,000-600,000 to promote PRA;[93] Bradley's 1994 contribution by itself represents 20 to 25 per cent of this effort.

The Bradley Foundation is a force for parental rights in its own right. In 1992 it commissioned William Kristol to do a report entitled the "Bradley Project on the '90s" to develop a conservative agenda. A 1993 *Washington Times* editorial written by Kristol and Jay Lefkowitz, "The Next Rebellion: Parents vs. the Liberals," announced "[a] new revolt by parents is brewing in the country against the cultural elite and the liberal bureaucratic state...."[94] Michael Joyce, president of the Bradley Foundation, used Kristol's study as the basis for a series of speeches in which he proposed that a parents movement was the cornerstone in the battle against women's and gay movements and the "nanny state."[95] Shortly afterwards, the Bradley Foundation extended seed money to Of The People. Bradley also provides general operating support to ALEC.[96] Bradley has also poured hundreds of thousands of dollars into the fight for school vouchers in Wisconsin and around the nation.

Most recently, Betsy DeVos, wife of Richard Jr. (Dick) DeVos, has joined Of The People as the co-chair, along with Jeffrey Bell.[97] The DeVos family is a major funding source for Religious Right and right-wing causes and groups. The family provides major funding to Concerned Women for America, Free Congress Foundation, Michigan Right to Life, Focus on the Family, Family Research Council and a number of other groups.[98] Betsy DeVos's husband, Dick DeVos, is the CEO of Amway Corporation, the home product distribution network, which recently gave $1.3 million to the San Diego Convention and Visitors Bureau to broadcast the Republican National Convention on Pat

Robertson's Family Channel.[99] This action has prompted the Democratic National Committee to file a complaint with the Federal Election Committee on the grounds that Amway's contribution amounts to illegal corporate contributions to a federal campaign.[100] Amway also contributed $2.5 million to the national Republican party in 1994 for the construction of a television studio in order to produce a weekly Republican program.[101] Dick DeVos is involved with anti-public education activities, and Betsy DeVos is Michigan's national committee member to the Republican National Committee, and has recently become the chairman of the Michigan GOP.[102] Richard DeVos, Dick DeVos' father, has served on the board and provided substantial backing to a number of far-right and Religious Right groups, including the Free Congress Foundation, Conservative Caucus, and Council for National Policy.[103]

American Legislative Exchange Council

The American Legislative Exchange Council (ALEC), based in Washington, D.C., links approximately 40 per cent of the nation's state legislators, along with corporations and conservative foundations. Established in 1973 by Paul Weyrich of the Free Congress Foundation, among others,[104] ALEC's stated mission is to "develop policies that expand free markets, promote economic growth, [and] limit government...."[105] and to that end provides state legislators with "data, research, analysis, model legislation, scholarly articles, reference lists and expert testimony..."[106] on such issues as the privatization of public services, school vouchers, "free-market" environmentalism, free-market health care, tort reform, state sovereignty and more.[107]

In the words of ALEC's executive director, Sam Brunelli, "ALEC's goal is to ensure that these state legislators are so well informed, so well armed, that they can set the terms of the public policy debate, that they can change the agenda, that they can lead. This is the infrastructure that will reclaim the states for our movement."[108]ALEC has received ringing endorsements from political figures such as former President George Bush, former Secretary of Education William Bennett, vice presidential candidate Jack Kemp, Virginia Governor George Allen, and ALEC recently awarded its highest honor to House Speaker Newt Gingrich.[109] The organization has the financial support of more than 200 corporations including Coors, Amway, IBM, Ford, Philip Morris, Exxon, Texaco and Shell Oil corporations.[110]

The parental rights amendment is just one of the many model bills provided to state legislators by ALEC. ALEC works in conjunction with OTP to pass parental rights legislation but is infrequently mentioned in the media as a PRA proponent. ALEC's model legislation, also entitled "Parental Rights Amendment" reads "The rights of parents to direct the upbringing and education of their children shall not be infringed. The legislature shall have power to enforce, by appropriate legislation, the provisions of this section."[111] This is *identical* to OTP's amendment in every particular. Also notable

is that both ALEC and OTP promote a constitutional amendment and claim to have introduced it in 28 states.

Ralph Benko, in a recent radio interview, was very frank about the means by which OTP's amendment is disseminated, saying: "I can tell you exactly where [parental rights is] coming from because it's coming from two organizations, which is Of The People and there's a group called ALEC, which is the American Legislative Exchange Council. We introduced the parental rights amendment at Of The People in coordination with ALEC and that is how it became introduced in 28 states."[112]

Media coverage of the parental rights issue almost universally identifies Of The People as the driving force behind the "movement," while ALEC has received relatively little attention. Nevertheless, according to ALEC's Parental Rights Amendment Statement, ALEC's "members are the primary driving force behind parental rights legislation in the states: in 1995 the Amendment was introduced in 28 states by 41 sponsors, and 37 of those sponsors are ALEC members."[113] In other words, *more than 90 percent* of the Amendment's sponsors were assisted by ALEC.

PRA proponents insist that parental rights is a grassroots effort. Yet when one examines the sources, the claim does not ring true. Ralph Benko insists that introduction of the state PRAs are the result of OTP and ALEC coordination. ALEC states that over 90 per cent of those amendments were introduced by their members. If both claims are legitimate, and it is true that ALEC disseminates OTP's (or its own identical) model legislation directly to conservative legislators, it casts serious doubts on the claims of PRA proponents that this is a legitimate grassroots movement.

Other National Religious Right Organizations

Much of the energy behind the Parental Rights Amendment push comes from the Religious Right. Prominent groups include the Christian Coalition, Concerned Women for America, National Association of Christian Educators/Citizens for Excellence in Education, Focus on the Family, Eagle Forum, the Rutherford Institute and the Family Research Council.

While the call for a constitutional amendment to codify parental rights is relatively recent, parental rights rhetoric has long been a rallying cry to push an anti-public school agenda. Phyllis Schlafly, president of the Eagle Forum and founder of STOP-ERA, has invoked parental rights to attack everything from state certification to drug counseling to world history curriculum.[114] In a 1985 column entitled "Diluting Parental Authority," Schlafly approvingly cites a letter written by a right-wing Maryland group demanding prior written parental consent for a discussion of a range of issues. The list of taboo topics, according to Schlafly: "death, suicide, alcohol, drugs, abortion,

contraceptives, extramarital sex, incest, nuclear war, globalism, population control, guided fantasy, hypnotism, witchcraft, the occult, horoscopes, self-disclosure, sensitivity training, open-ended discussions about morals, life-or-death decision games, and attitudes toward parents."[115] A 1984 press release from Schlafly asserts that public schools teach children "how to commit suicide, how to use illegal drugs, how to engage in premarital and promiscuous sex, and how to lie, cheat, steal, and spy on their parents," and that this "anti-moral, anti-parent education has been spread to every part of the United States by the Typhoid Marys of federal funding."[116]

Parental rights legislation is of sufficient importance to the Christian Coalition that it was made the fourth plank of its "Contract with the American Family." Ralph Reed, Christian Coalition Executive Director, endorsed the federal bill, saying "What we're trying to insure through this legislation is very simple--that schools reinforce rather than undermine the values parents teach to our children in our homes, churches and synagogues."[117] A recent Christian Coalition school board training seminar featured campaign training on parental rights, along with "sex education, outcome-based education, school choice, curricula, dealing with teacher unions."[118] While the Christian Coalition national office's rhetoric is more subdued than that of other organizations, its local affiliates are not as restrained. A recent newsletter of the Capital City, Texas Christian Coalition warns that without protection, "your children will become no different than coal, or trees, or oil, one more resource for the state to oversee and manage."[119] The author also asserts that "communism may be dead in Russia but the hideous underlying philosophies are alive and well today in Texas."[120]

Concerned Women for America, an anti-gay, anti-sex education and anti-choice group that believes public policy should be based on "Christian values," sent out a mass mailing in November 1995 to announce "an all-out media and educational blitz to rally support nationwide for the Parental Rights and Responsibilities Act," legislation "vital to the future of the American family." Postcards demanding that Congressmen put an end to government agencies and courts' "usurping the rights of parents" were included.[121]

The National Association of Christian Educators/Citizens for Excellence in Education (NACE/CEE), in the Fall 1995 issue of *Education Newsline*, called the PRRA a parents' "Bill of Rights" sent to protect parents from a "complex 'child-abuse industry.'" The article rightly points out that the PRRA would "shift the burden of proof to the government."[122] An earlier NACE/CEE President's Report invokes parental rights to oppose a provision in the Elementary and Secondary Education Act which they erroneously claimed would have required homeschoolers to be state certified, thereby causing the "Sovietization of American Schools." The report goes on to explain "CEE has been in the forefront of helping parents know how to help protect their own children from faith-destroying curriculum, immoral education on sex and AIDS/homosexuality/lesbianism, and occultic new-age practices." "Please pray that

CEE, CWA, EF, CBN, Rutherford Institute and Western Center for Law and Religious Freedom (David Llewellyn), will succeed in the battle to save our children and our churches, by fighting courageously for parental rights! That is my burden, beloved."[123]

Focus on the Family, based in Colorado Springs, Colorado, that was supportive of Amendment 2, Colorado's anti-gay initiative on the ballot and actively opposes all sexuality education programs that are not abstinence only (do not have information on contraception). FOF urges its members in a recent fact sheet to push for federal and state legislation because they "believe that children are a heritage from the Lord and that parents are the ones primarily responsible for raising, shaping and preparing them for a life of service to God's Kingdom and humanity. Therefore, we support the protection of parental rights, allowing parents the opportunity to fulfill their God-given responsibilities." The fact sheet then promotes Of The People and urges parents who have had problems with government agencies to contact the Rutherford Institute. [124]

The Rutherford Institute, a Religious Right legal group, showed its support as the author of one of the California parental rights initiatives,[125] and is currently involved in a number of parental rights lawsuits. California's original bill was offered by state Sen. Robert Hurtt (R-Garden Grove), who himself has strong ties to Focus on the Family,[126] and helped found the Capital Resource Institute, which actively lobbies against the interests of public education and gay rights, and pushes for welfare limits and parental rights.[127] Sponsors of the bill in some states count on the aid of Michael Farris, president of the Home School Legal Defense Association,[128] former general counsel for CWA, and former executive director and general counsel of the Washington state chapter of the Moral Majority.

Gary Bauer, president of the Family Research Council, formerly a division of Focus on the Family, and now a leading lobby group for school prayer, and against reproductive freedom and civil rights for gays, warmly praised Of The People for authoring the PRA. The FRC was represented at the recent OTP conference, and made parental rights the topic of its television show in June. Participants, representing the Capitol Resource Institute, Family Research Council, a Focus on the Family affiliate and other Religious Right groups, aired their concerns about the "erosion" of the traditional family, the "encroachment" of government on citizens, sexuality education and the current tax structure which they say forces mothers to work outside the home. One participant attested that "We are seeing situations in Missouri where kids who are struggling with same-sex identity issues are sent to a counselor who happens to be a homosexual, and that is like sending a drunk to another drunk for counseling.[129]

Opponents of the Parental Rights Amendment

A broad coalition of more than 65 child welfare groups, church organizations and education groups has formed to formally oppose the federal Parental Rights and Responsibilities Act; the coalition's diversity attests to the wide-ranging effect that PRRA would have, if enacted. Coalition members include the American Academy of Pediatrics, American Counseling Association, American Professional Society on the Abuse of Children, Child Welfare League of America, National Association of School Psychologists, National Association of Social Workers, National Black Women's Health Project, National Council of Churches of Christ, National Council of Jewish Women, Anti-Defamation League, Presbyterian Church USA Washington Office, People for the American Way Action Fund, Religious Coalition for Reproductive Choice, National Education Association, American Association of School Administrators, the National PTA, National SAFE KIDS Campaign and the National School Boards Association.[130]

Conclusion

Parents, teachers, librarians, lawyers, doctors and nurses, church members and health care workers have united in Colorado and around the country to oppose the PRAs and to educate the general public about the dangers behind this seemingly innocuous proposal. The coalition's diversity is itself the best measure of the PRA's potential impact on court room and legal protections for children's rights, child abuse reporting, public school curriculum and education policy.

Proponents of parental rights initiatives have created a powerful vehicle for attacking public education and state and federal legislation, but so far, no state constitution has been amended to include the PRA. For this reason, the Colorado ballot initiative is the focus of national attention; if voters in that state approve the measure, similar initiatives will surely be introduced in most, if not all, state legislatures in upcoming sessions. Just as Religious Right groups have rallied around the Colorado initiative, the Protect our Children Coalition--whose breadth equals that of the national coalition--has been active in exposing the intent behind the initiative. It is their conviction that once the general public is informed of the purpose, sponsors and consequences of the PRA, the initiative's potential consequences will prompt its rejection by the voters.

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